

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMAL DAMON HENDRIX,

Plaintiff,

v.

KARA LEGRAND, *et al.*,

Defendants.

Case No. 2:22-cv-01402-ART_BNW

ORDER

Pro se Plaintiff Jamal Damon Hendrix, an inmate incarcerated in the custody of the Nevada Department of Corrections (NDOC), brings this civil rights action under 42 U.S.C. § 1983. In his original complaint, Plaintiff alleges various violations of his First, Eighth, and Fourteenth Amendment while incarcerated at Ely State Prison (ESP) and Lovelock Correctional Center (LCC). (ECF No. 1-1 at 1-11.) Plaintiff subsequently filed a Motion for Injunctive Relief, a Motion for a Temporary Restraining Order, and a Motion for Order to Show Cause for further alleged violations occurring at Southern Desert Correctional Center (SDCC).¹ (ECF Nos. 11-13.) Interested Party NDOC opposed all of the motions.² (ECF Nos. 15-17.) Plaintiff filed a Motion to Extend Time to file Replies and later filed his Reply. (ECF Nos. 30-31.) Without addressing the merits of Plaintiffs' motions, the Court will deny them without prejudice because the new claims lack a sufficient nexus with his initial claims. The Court advises Plaintiff that if he wishes to resubmit these claims, he must file a new action.

I. BACKGROUND

a. Initial Complaint and Screening

Plaintiff alleges multiple violations of his rights while in ESP and LCC's

¹ Plaintiff's motions are identical. For consistency, the Court will cite to ECF No. 11.

² NDOC filed the same Opposition to the three motions. For consistency, the Court will cite to ECF No. 15.

1 custody. He first claims that, on August 26, 2021, Officer Bashor pulled him out
 2 of line to conduct a body search while awaiting transport from ESP to LCC. (ECF
 3 No. 1-1 at 11.) Officer Bashor found legal documents with officers' names related
 4 to another lawsuit and threw away the documents. (*Id.* at 11-12.) He also
 5 demanded Plaintiff hand over his Islamic head covering (kufi), stated such items
 6 were not allowed during transfers, and threw it away, despite allowing a Jewish
 7 inmate to wear a yarmulke. (*Id.* at 12.) Officer Bashor called Sergeant Rigney to
 8 observe the trashing of these items, yet Sergeant Rigney did nothing to stop him.
 9 (*Id.* at 23.) Plaintiff alleges that Officer Bashor discriminated against him for his
 10 Islamic beliefs and retaliated against him for Plaintiff's lawsuit against his
 11 subordinates. (*Id.* at 12.)

12 Plaintiff discusses additional alleged violations that took place at LCC. On
 13 August 31, 2021, Plaintiff was temporarily housed in the infirmary in accordance
 14 with COVID-19 protocol. (*Id.*) The Law Library Supervisor, Bequette, and a
 15 housing unit caseworker, Ferro, came to have Plaintiff sign his legal documents.
 16 (*Id.*) Officer Martinez "yelled at [Plaintiff] in a degrading manner and provocative
 17 tone for [him] to get over to the cell door and sign the documents" when Plaintiff
 18 went to his desk to get a pen. (*Id.* at 13.) Plaintiff told Officer Martinez that he
 19 didn't like him, he needed to learn how to talk to people, and that Plaintiff planned
 20 to sue him. (*Id.*) Plaintiff claims that Officer Martinez wrote a disciplinary report
 21 in retaliation and told the other housing unit prisoners that "cell #4 is no good
 22 y'all, he's in jail for beating and raping an old lady so if you see him on the yard,
 23 get his blackass [sic]." (*Id.*) Plaintiff alleges that Officer Martinez violated his First
 24 and Eighth Amendment rights by putting him in danger of assault and retaliating
 25 against him for filing grievances and lawsuits. (*Id.*)

26 Plaintiff then recounts a third incident involving a medical emergency. On
 27 October 25, 2021, Plaintiff had an epileptic seizure in his cell. (*Id.* at 14.) Plaintiff
 28 alleges that the facility's electrician and his inmate assistant had purposely

1 dismantled the emergency call button in retaliation for filing grievances. Plaintiff
2 had previously informed Sergeant Hughes and Housing Unit Senior Officers
3 Orentez and Parker about the broken button, but they did not follow up after
4 putting in work orders to fix it. (*Id.*) Plaintiff had also notified Associate Warden
5 LeGrand of the broken emergency button. (*Id.*) Plaintiff alleges that these officials,
6 acting in retaliation, failed to resolve his issue, leading to the denial of medical
7 treatment. (*Id.* a 14-15.)

8 Plaintiff then explains an additional incident involving his cellmate and prison
9 officials. On November 15, 2021, Plaintiff requested Officer Parker come get him
10 from his cell after his cellmate wanted him to leave. (*Id.* at 15.) When Officer
11 Parker didn't open the door, the cellmate got frustrated and attacked Plaintiff in
12 the face, eyes, and lips, causing him to bleed. (*Id.*) Plaintiff alleges Officer Zysman
13 had earlier told his cellmate that Plaintiff had snitched on Associate Warden
14 LeGrand and Officer Martinez, leading him not to want to double cell with
15 Plaintiff. (*Id.*) Approximately fifteen to twenty minutes later, Officer Zysman came
16 to the cell door and ordered the cellmate to “[f]inish [Plaintiff] up,” forcing Plaintiff
17 to fight back in self-defense. (*Id.* at 15-16.) Officer Zysman then sprayed Plaintiff
18 with a chemical agent without warning while he was already on the ground and
19 the cellmate was already removed, and told Plaintiff, “You gonna stop writing
20 grievances huh, you gonna stop?” (*Id.* at 16.) Officers ran into the cell and jumped
21 on Plaintiff's neck and shoved his face to the ground, resulting in him having a
22 swollen left eye, fractured nose, lacerated lips, and irritated skin, and needing
23 seven stitches. (*Id.* at 16-17.)

24 Plaintiff further alleges that the facility's male medical provider and two female
25 nurses were deliberately indifferent to his medical needs and retaliated against
26 him for filing grievances following this incident. The young brunette nurse refused
27 to attend to him while writing a report and unless Plaintiff told her what
28 happened. (*Id.* at 17.) She then told Plaintiff, “Since you like writing grievances

on us, you can wait for the doctor.” (*Id.*) She forced Plaintiff to wait more than an hour in pain while asking him questions. (*Id.*) The Medical Provider Marks placed seven stitches on the upper and bottom left side lips but “purposely failed to provide stitches to the outside of [his] lip which later that night began oozing pus and was bleeding.” (*Id.* at 18.) The other nurse refused to give Plaintiff any antibiotics, Ibuprofen, gauge pads, ice packs, or peroxide, yet gave his cellmate a bottle of peroxide and antibiotics. (*Id.*) The nurse and doctor told Plaintiff “[he] wasn’t getting anything because [he] deserved what [he] got.” (*Id.*) Plaintiff claims that Medical Provider Marks, the nurses, Lieutenants Clark and Collier, Sergeant Mainwaring, and Officer Macias had all agreed to refuse Plaintiff treatment until he explained what had happened. (*Id.* at 18-19.) Afterwards, Officer Macias and Lieutenant Colter took him to the Infirmary’s cell holding but a different officer in the holding area denied him a medical kite and pencil. (*Id.* at 19.) Later, this officer and the second nurse came to his cell door to look at his face wounds. (*Id.*) When asked if either would provide him pain medication and an ice pack, they both refused and said “[h]ell no.” (*Id.* at 19-20.)

Plaintiff argues that LCC’s Full Classification Committee, consisting of Associate Warden Henley, Associate Warden LeGrand, Caseworker Southworth, and Caseworker Stammerjohn, “all failed to properly screen [his] cellmate for compatibility before assigning him to [his] cell per NDOC classification policy.” (*Id.* at 20.) Plaintiff’s cellmate had been kicked out of the standard living program (SLP) run by Associate Warden LeGrand, and he claims Associate Warden LeGrand “purposely placed him in [his] cell to attack [him] in retaliation for [his] prison grievance [he] filed against her for not fixing [his] cell emergency call button in which [he] had a seizure.” (*Id.*) Plaintiff alleges that Associate Warden LeGrand knew the cellmate was aggressive towards other prisoners, only eighteen years old, and had a mental illness. (*Id.*)

During the screening process, this Court dismissed some claims and allowed

1 others to proceed. The Court found that the following claims could proceed: 1) a
2 claim of First Amendment retaliation against Officer Bashor and Sergeant Rigney
3 for the first incident; 2) an equal protection claim against Officer Bashor and
4 Rigney for the first incident; 3) Free Exercise Clause, RLUIPA, and Establishment
5 Clause claims against Officer Bashor and Sergeant Rigney for the first incident;
6 4) a First Amendment retaliation claim against Officer Martinez for the second
7 incident; 5) an Eighth Amendment claim for unsafe prison conditions against
8 Officer Martinez for the second incident; 6) a claim for failure to intervene in
9 constitutional violations against Caseworker Ferro and Law Library Supervisor
10 Bequette for the second incident; 7) an Eighth Amendment deliberate indifference
11 to serious medical needs claim against Sergeant Hughes and Associate Warden
12 LeGrand for the third incident; 8) an equal protection claim against the facility's
13 electrician and his inmate assistant for the third incident; 9) a failure to protect
14 claim against Officer Parker for the fourth incident; 10) an Eighth Amendment
15 excessive force claim against Officer Zysman for the fourth incident; 11) a First
16 Amendment retaliation claim against Officer Zysman and the first nurse for the
17 fourth incident; 12) an Eighth Amendment deliberate indifference to serious
18 medical needs claim against Lieutenants Clark and Collier, Sergeant Mainwaring,
19 Dr. Marks, the nurses, and Officer Macias for the fourth incident. (ECF No. 3 at
20 29-30.)

21 **b. Motions for Injunctive Relief, a Temporary Restraining Order,**
22 **and an Order to Show Cause**

23 Plaintiff later filed a motion for injunctive relief, a temporary restraining
24 order, and an order to show cause following additional incidents while
25 incarcerated at SDCC. Plaintiff alleges that various officials at SDCC limited his
26 law library access, including access to indigent supplies, blank legal documents,
27 copy requests, legal supplies, and case law check-outs. (ECF No. 11 at 1.) Plaintiff
28 also claims the prison is preventing and/or delaying his ability to e-file

1 documents and mail out legal documents. (*Id.* at 1-2.) Plaintiff requested this
2 Court order the relevant parties to appear in court to explain why the Court
3 should not order a preliminary injunction and restraining order enjoining the
4 Defendants from hindering and intercepting his legal mail, preventing him from
5 receiving legal supplies, legal copies, caselaw, and other documents from the
6 SDCC law library, and interfering with his ability to e-file. (*Id.* at 2-4.)

7 Interested Party NDOC opposes these motions on multiple grounds. First,
8 NDOC argues that the restraining order and preliminary injunction were not
9 narrowly tailored because the requests were open-ended because they required
10 the prison to provide access to the courts and for multiple SDCC employees to
11 appear in court. (ECF No. 15 at 5.) In addition, NDOC claims that “Hendrix has
12 access to the law library, received caselaw, has caselaw that has not been
13 returned, had appointments with the law library to pick up forms and e-filed
14 documents, failed to attend law library appointments, and received multiple
15 blank complaints, applications, administrative claim forms, and financial
16 certificates.” (*Id.*) Associate Warden Currier claims she found no credible evidence
17 of anyone preventing Plaintiff from sending legal mail and declared that she has
18 no ability to intercept his mail. (*Id.*) She also attests that Plaintiff must send a
19 kite to the mail room for legal mail assistance, which he has failed to do. (*Id.* at
20 6.) NDOC also argues that Plaintiff’s motions lack a sufficient nexus to his
21 surviving claims because his original claims concern events that took place at
22 different prisons from his current SDCC-based claims. (*Id.*)

23 NDOC further alleges that Plaintiff failed to address the *Winter* factors for
24 a preliminary injunction and temporary restraining order. (*Id.*) NDOC denies that
25 Plaintiff will face any irreparable injury absent injunctive relief since Defendants’
26 declarations show he has access to the law library and Plaintiff has demonstrated
27 his ability to send legal mail by sending the instant motions. (*Id.* at 7.) NDOC also
28 argues that Plaintiff does not have a strong likelihood of success on the merits as

he did not administratively exhaust his claims and his medical records undermine his allegations (*Id.* at 2, 8.) Regarding whether a balance of hardships favor relief, Defendants claim that Plaintiff's interests do not outweigh the strong weight given to public safety and the operation of the criminal justice system. (*Id.* at 8-9.) NDOC further denies that any of the motions are in the public interest. (*Id.* at 9.)

Plaintiff challenges NDOC's analysis of the *Winter* factors. Plaintiff reiterates his claim that SDCC officials have hindered his access to the law library litigation supplies. (ECF No. 31 at 7-8.) In addition, Plaintiff emphasizes that NDOC failed to provide direct evidence that Plaintiff has been able to access the law library. (*Id.* at 9-10.) Plaintiff argues that he will face irreparable harm because he claims that Supervisor Espinoza refuses to send out or delays sending his E-filings. (*Id.* at 11.) Plaintiff then claims that the balance of hardships weigh in his favor and that he is likely to succeed on the merits because prison officials prevented him from exhausting his administrative remedies. (*Id.* at 12-14.) Lastly, Plaintiff argues that his requested relief serves the public interest because the public has an interest in officials obeying the law. (*Id.* at 14.)

II. LEGAL STANDARD

To succeed on a preliminary injunction motion, the movant "must establish (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm, (3) that the balance of harm tips in the movant's favor, and (4) that the injunction is in the public interest." *Chamber of Com. Of the U.S. v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023) (citing *All. For the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)). "The first factor—likelihood of success on the merits—is the most important factor." *Id.* (quoting *California by & through Becerra v. Azar*, 950 F.3d 1067, 1083 (9th Cir. 2020)) (en banc). "Additionally, when a party seeks a preliminary injunction against the government, as is the case here, the balance of equities and public interest factors merge." *Id.* (citing *Drakes Bay Oyster Co. v.*

1 *Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). “A temporary restraining order and
 2 a motion for an injunction are analyzed under the same standard[.]” *Fang v.*
 3 *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 694 Fed.Appx. 561, 561 n.1 (9th Cir.
 4 2017) (citing *Stuhlburg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839
 5 n.7 (9th Cir. 2001)).

6 For a district court to grant injunctive relief, there must exist “a sufficient
 7 nexus between the claims raised in a motion for injunctive relief and the claims
 8 set forth in the underlying complaint itself.” *Pacific Radiation Oncology, LLC. V.*
 9 *Queen’s Medical Center*, 810 F.3d 631, 636 (9th Cir. 2015). “The relationship
 10 between the preliminary injunction and the underlying complaint is sufficiently
 11 strong where the preliminary injunction would grant ‘relief of the same character
 12 as that which may be granted finally.’” *Id.* (quoting *De Beers Consol. Mines*, 325
 13 U.S. 212, 220 (1945)). “Absent that relationship or nexus, the district court lacks
 14 authority to grant the relief requested.” *Id.*

15 **III. DISCUSSION**

16 Without considering the merits of the present motions, this Court cannot
 17 grant injunctive relief because the new claims lack a sufficient nexus to the
 18 underlying claims. Plaintiff’s original complaint concerned multiple allegations of
 19 violations of Plaintiff’s First, Eighth, and Fourteenth Amendment rights by ESP
 20 and LCC officials, while the current motions address subsequent allegations of
 21 SDCC officials interfering with his access to the courts and legal materials. (ECF
 22 Nos. 1-1 at 11-20; 11 at 1-4.) Plaintiff also does not seek the same relief in these
 23 motions. In his original complaint, Plaintiff requested compensatory and punitive
 24 damages against Defendants. (ECF No. 1-1 at 44-45.) In his present motions,
 25 Plaintiff seeks a preliminary injunction, a temporary restraining order, and an
 26 order to show cause. (ECF No. 11 at 1-4.) Thus, this Court lacks authority to
 27 grant Plaintiff his requested relief. If Plaintiff wishes to pursue these claims, he
 28 must file a separate action.

1 **IV. CONCLUSION**

2 It is ordered that Plaintiff's Motions for Injunctive Relief, a Temporary
3 Restraining Order, and an Order to Show Cause (ECF Nos. 11-13) are denied
4 without prejudice.

5 It is further ordered that ECF No. 30 is denied as moot in light of Plaintiff's
6 filing of ECF No. 31.

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8 DATED THIS 20th day of September 2023.

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12 ANNE R. TRAUM
13 UNITED STATES DISTRICT JUDGE

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